IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 661 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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CK JOSHI

Versus

UNION OF INDIA

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Appearance:

MR VIPUL S MODI for Petitioner

NOTICE SERVED BY DS for Respondent No. 1

MR ANANT S DAVE for Respondent No. 2

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 25/06/2001

ORAL JUDGEMENT

Rule. Mr. Anant S. Dave waives service of Rule for respondents.

2. The subject matter of the petition is a bill for

an amount of Rs.23,544/- for new temporary connection No.7411002. The dispute is for the said bill for the period between 21-7-1995 and 31-10-1996. That temporary connection was removed and replaced by a regular telephone connection with Telephone No.7416100. The said new telephone connection was, however, sought to be disconnected on the ground of non-payment of an amount of Rs.23,554/- for the temporary connection No.7411002. The petitioner lodged a complaint against the excess billing of Rs.23,554/-. The petitioner was, therefore, required to first pay an amount of Rs.5108/- in October, 1996. The petitioner paid the same in order to ensure that he is not put to any personal difficulties at the age of 80 years on account of non-availability of telephone facility. It appears that the petitioner's representative approached the Department and raised objections in May/June, 1997. However, in February, 2000, the Department disconnected Telephone No.746100 i.e. the regular telephone line on the ground that the balance amount was not paid in connection with the temporary connection. Hence, the petitioner has approached this Court.

3. In response to the notice issued by this Court, affidavit-in-reply has been filed by Assistant Accounts Officer Mr. N.J. Merani. Although the Deponent of the reply affidavit has tried to justify the action of the Department, the affidavit does not disclose that the Department had carried out proper investigation and testing pursuant to the petitioner's complaint of excess billing.

4. In the facts and circumstances of the case, particularly in view of the fact that no international S.T.D. calls or even other S.T.D. calls are attributed to the petitioner for the period in question and that the billing is only for local calls and that the petitioner is an 80 year old person who is not expected to make so many calls as to get a bill of Rs.23,554/- for a period of fifteen months between 21-7-1995 and 31-10-1996, it appears to the Court that this is a fit case for directing the respondents to look into the petitioner's grievance and to make proper investigation about the excess billing.

5. In view of the above discussion, the petition is partly allowed. The respondents are directed to make investigation into the petitioner's complaint against the excess billing in connection with temporary connection No.7411002 for the period between 21-7-1995 and 31-10-1996 and to take appropriate action on that basis.

In case the petitioner's complaint is accepted in whole or part, the respondents shall refund the amount paid by the petitioner in excess of such legitimate bill. This exercise shall be undertaken with three months from the date of receipt of writ of this Court or a certified copy of this order, whichever is earlier. Rule is made absolute to the aforesaid extent with no order as to costs.

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zgs/-